

Involuntary sterilisation: we still need to guard against it

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INTRODUCTION

Bodily autonomy and valid consent processes are fundamental to human rights. Sterilisation is an important means of fertility control but should never infringe human rights. Professionals need to be aware of the varied contexts in which sterilisations without due regard to human rights have been done.

HISTORICAL CONTEXT

Various ideologies, promoted from the late 19th century until well into the second half of the 20th, have contributed to practices of involuntary (forced) sterilisation, especially of those considered to be 'undesirable' or a 'burden to society'. Imperialism, capitalism and patriarchy have all influenced social and economic standards by which people and their fertility are valued.¹ Neo-Malthusianism, too, advocated coercive sterilisation practices prior to the Second World War, an uncomfortable truth for the family planning movement which began joining forces with the population movement in 1952. However, from that time forward, both movements were signed up to the principle of voluntarism; in other words, that a person is willing to undergo the procedure and is not being unduly influenced, pressurised or coerced.

Involuntary sterilisation began as a punitive measure for criminal behaviour, especially in the USA in the second half of the 19th century.² Eugenics became a strong movement from 1883 onwards, its proponents claiming that mankind can shape the characteristics of its descendants through selective 'breeding'.² It was mostly put into practice only in countries without a strong Catholic ethic, where it was backed by scientists and opinion leaders, and then put on a legal footing by political authorities. Two-thirds of US states and some Canadian provinces took up eugenics; involuntary sterilisation formed part of negative eugenics, that is stopping those

considered to be 'degenerate' in some way from reproducing.² People with either physical or mental disabilities were identified as targets for sterilisation in North America, in particular those 'failing' Western-design intelligence tests.³ Eugenics carried out in Nazi Germany was based on a US model.² Eugenic sterilisations were also performed in other European countries.⁴ Both Marie Stopes and Margaret Sanger advocated eugenic sterilisation.⁵

Since the end of the Second World War, people have been sterilised as part of population policies⁶ and as discrimination against ethnic minority groups. Minority groups targeted in the USA, mainly in the 1970s, were Puerto Ricans, African-Americans, Chicanos and Native Americans.² Other specific, marginalised groups have been targeted, including women living with HIV⁷ and those from transgender and intersex communities.⁸

Towards the end of the 1960s, in India, almost 90% of more than one million annual sterilisations were done on men.⁹ The voluntariness of these sterilisations is not documented; it has been estimated that as many as one-third of sterilisations in India are performed without valid consent.¹⁰ In some cases, understanding of the procedure by poorly educated men is so lacking that they have undergone more than one vasectomy. However, around the world overall, for more than a century, there has been a pervasive bias towards involuntary sterilisation of women, which reflects their long-standing subordination and relegation to an inferior societal status.

Common to all involuntary sterilisation is an abuse of power and preying on vulnerable groups. It has been carried out both within legal systems, that contained specific statutes for eugenic sterilisation, and outside the legal system – where society turned a blind eye, there was a lack of enforcement by authorities, or it was done in a covert manner. In countries



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with sterilisation laws, such laws have often been 'creatively' interpreted. When state policies are ruthlessly enforced, professionals can get caught up in a target/quota system.⁶ For example, individual gynaecologists in Uzbekistan have been set monthly governmental targets of female sterilisations to 'achieve'.¹¹ Alternatively, when minority groups are frowned on by much of society, professionals' actions can be seen merely as an extension of public opinion.

Being rendered sterile against one's will is highly stigmatising, often even more so than being considered and treated as belonging to a low-status group such as indigenous peoples or those living with HIV. Although loss of the ability to bear children generally cannot be reversed (usually unfeasible in low-resource countries or many years after the event), it has become apparent that reparations not only give people restorative justice but in a small way also some peace of mind.¹² However, it may be many years before admission that the injustices actually occurred is forthcoming, let alone giving survivors any redress. Governments of most countries eventually award some monetary compensation but the symbolism of an apology may be a step too far for some. Public apologies have been forthcoming in North America and Scandinavia but not in the Czech Republic, Hungary and Slovakia. Expression of regret by a government on behalf of a previous administration, even decades after the event, is to be encouraged. Governments that continue to refuse to apologise may find that ultimately they are sued by the victims, as is happening now in Japan.²

Other survivors find some kind of solace in 'going public'. A number of them have published articles, spoken to the media, written about their experience or even embarked on a lecture circuit.³ Although not compensation as such, venting one's feelings and making sure that as many people as possible learn of the injustice inflicted gives some small measure of redress. Dissemination of information about past abuses has also been possible through carefully-researched documentaries about involuntary sterilisation; Puerto Ricans¹³ and Chicanos in Los Angeles¹⁴ telling their stories brought alive the historical abuses to a modern-day audience in a way that the written word cannot. A British film-maker is about to release a documentary about the gross injustices visited on tens of thousands of Native American women in the USA in the 1970s.¹⁵

International human rights have gradually crystallised over the last seven decades or so and are nowadays enshrined in clear-cut laws of international standing.¹⁶ The right to decide on the number and spacing of one's children is one of them. Transgressions of human rights will be taken to regional courts. Even though not all courts yet find that individuals or groups have been discriminated against, judgments are now being made against defendants on the basis of invalid consent to sterilisation.¹⁶ Survivors of involuntary sterilisation are entitled to remedies.¹⁶

CURRENT CONTEXT

Have these abuses now stopped? Sadly not. Twenty-first century reports of forced sterilisation have been identified from 38 countries.¹⁷ There are exceptions to the general trend towards rights-based population policies. Sterilisation camps are to be phased out in India but more than a million sterilisations with dubious consent processes are still taking place each year.¹⁸ Although China has now switched to a two-child population policy, forced sterilisations continue there too. Coerced sterilisation after two children is also widespread in Uzbekistan.¹¹ A report last year from the Canadian province of Saskatchewan showed endemic coercion of indigenous peoples.¹⁹ The situation has come full circle in the USA: judges have included sterilisation as part of a plea bargain or traded it for reduced sentences.²⁰ In California, in the first decade of this century, female prisoners were sterilised against federal and state regulations.²

ACTION NEEDED BY PROFESSIONALS

Clinicians and social workers should ensure they work to current national and international guidance on sterilisation; they should never abuse their power. While sterilisation is an important means of fertility control and should be offered as an option when appropriate, people must be properly informed about it and choose it according to their own free will.²¹ Human rights should not be compromised by population policies, nor should vulnerable groups be targeted for forced sterilisation.

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